

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

MAX ORTEGA III,

Plaintiff,

v.

No. CIV 21-0728 RB/JHR

WILLIAM EDGMAN, LOUISE LOPEZ,<sup>1</sup>  
NEW MEXICO CORRECTIONS  
DEPARTMENT, and DOES (1–50),

Defendants.

**ORDER FOR SUPPLEMENTAL BRIEFING**

This matter is before the Court on Luis Lopez’s Motion for Summary Judgment. (Doc. 21.)

This lawsuit concerns the conditions of confinement of Max Ortega III, who was kept in the Restrictive Housing Unit of a state correctional facility as a pretrial detainee for almost a year. Ortega alleges that the conditions of his confinement amounted to punishment in violation of his procedural due process rights. He has filed suit against Luis Lopez, the RHU Unit Manager. Lopez moves for summary judgment on the basis of qualified immunity. (Doc. 21.)

Based on the parties’ submissions, the Court seeks supplemental briefing on three issues.

The parties should address and support their respective positions on:

(1) whether NMCD Policy CD-141500 (the Restrictive Housing Policy) applies to county inmates housed at the facility pursuant to a safekeeping order;<sup>2</sup>

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<sup>1</sup> Defendants have clarified that Lopez was misnamed in the Amended Complaint as “Louise Lopez.” (Doc. 2 at 1.)

<sup>2</sup> For example, the Court seeks clarification on whether county inmates are included in the definitions of inmates who are “placed in Restrictive Housing for disciplinary or Pre Hearing Detention reasons . . . .” (*See* Doc. 35-1 at 1.) *See also, e.g.*, N.M. Corr. Dep’t Policy CD-090100, Inmate Discipline, <https://www.cd.nm.gov/wp-content/uploads/2022/05/CD-090100.pdf> (revised May 28, 2019) (defining “disciplinary restrictive housing” and “pre-hearing detention”).

(2) the interplay between NMCD Policies CD-143500–143501 (the NMCD Safekeeping Policy) and CD-141500 (the Restrictive Housing Policy), specifically with respect to the mention of CD-141500 within CD-143501 (*see* Doc. 21-E at 2); and

(3) whether Ortega had any right to periodic reviews of his placement in the RHU pursuant to the Restrictive Housing Policy, and if he did, whether that right was violated as alleged in his Amended Complaint (*see* Doc. 1-3 ¶¶ 108–09).

**THEREFORE,**

**IT IS ORDERED** that Lopez shall submit a supplemental brief on these issues no later than **Friday, December 9, 2022**. Ortega shall submit a supplemental brief in response no later than **Friday, December 30, 2022**. The parties' briefs shall not exceed ten pages (including any supporting affidavits or other evidence).

  
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ROBERT C. BRACK  
SENIOR U.S. DISTRICT JUDGE